

**State of California  
Office of Administrative Law**

**In re:**

**California Gambling Control Commission**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Regulatory Action:**

**Government Code Section 11349.3**

**Title 4, California Code of Regulations**

**OAL File No. 2008-1230-01 S**

**Adopt sections: 12362**

Received by Licensing

CDC

This action implements section 19844 of the Business and Professions Code, providing a procedure for the creation of a list of persons who are to be excluded from all gambling establishments on the basis that they pose a threat to the interests of the State of California or controlled gambling and a procedure to afford excluded persons an administrative review of exclusion decisions.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 3/15/2009.

**Date: 2/13/2009**



**David D. Potter  
Senior Staff Counsel**

**For: SUSAN LAPSLEY  
Director**

**Original: Terri A. Ciau  
Copy: James Allen**

## NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

**REGULAR**

See instructions on reverse

For use by Secretary of State only

STD 400 (REV. 01/08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2007-12-18-01	REGULATORY ACTION NUMBER 2008-1230-01 S	SEQUENCE NUMBER
For use by Office of Administrative Law (OAL) only			
AGENCY WITH RULEMAKING AUTHORITY California Gambling Control Commission		AGENCY FILE NUMBER (if any) CGCC-GCA-2007-R-7	

ENDORSED FILED  
IN THE OFFICE OF

2009 FEB 13 PM 1:49

Diana Bowen  
DEPUTY SECRETARY OF STATE**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice to Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 08-1230-01 S		PUBLICATION DATE 1/1/2008	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Statewide Involuntary Exclusion List		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) n/a	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		ENDORSED APPROVED FEB 13 2009 Office of Administrative Law	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		TITLE	
4		§ 12362	
3. TYPE OF FILING		3. TYPE OF FILING	
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2, 11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____		<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) October 10 - 27, 2008			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON James Allen		TELEPHONE NUMBER (916) 263-4024	FAX NUMBER (Optional) (916) 263-0452
		E-MAIL ADDRESS (Optional) Jallen@cgcc.ca.gov	

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I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DEAN SHELTON, Chairman

DATE

12-24-08

CALIFORNIA CODE OF REGULATIONS  
TITLE 4. BUSINESS REGULATIONS.  
DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.  
CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.

ARTICLE 1. GENERAL PROVISIONS.

**§ 12362. Statewide Involuntary Exclusion List.**

(a) A licensee may remove a person from the gambling establishment pursuant to Business and Professions Code section 19801, subdivision (i), or Business and Professions Code section 19845. A gambling establishment may also have an internal removal list to bar certain individuals from entering the specific gambling establishment only.

(b) A licensee or government official (such as law enforcement, or agents of the California Horse Racing Board, Bureau, or Commission) ("requestor") may submit, on form CGCC – 12362 (New 10-08) "Request for Statewide Involuntary Exclusion of an Individual," which is attached in Appendix A to this chapter, a request to exclude an individual from all California gambling establishments based upon the reasons listed in Business and Professions Code section 19844 or 19845, subdivision (a)(7). Such request shall have the protections afforded under Business and Professions Code section 19846, subdivision (a).

(c) Removal of an individual from a specific gambling establishment, as described in subsection (a) above, or statewide exclusion, pursuant to the request described in subsection (b) above, shall not be based upon the sex, race, color, religion, ancestry, national origin, marital status, sexual orientation, medical condition, or disability of the individual, with the exception that a problem or pathological gambler may be excluded pursuant to Article 6 of these regulations (commencing with section 12460) or involuntarily excluded pursuant to this section.

(d) Upon receipt of a request by a licensee or governmental official for statewide involuntary exclusion of an individual, the Executive Director shall review the reason for exclusion. If there appears to be good cause to place an individual on the statewide involuntary exclusion list, the Executive Director shall cause a notice of exclusion to issue to the individual. Such notice shall state the grounds for exclusion and may be served by personal service, by certified mail at the last known address of the individual, or by publication daily for 1 week in a newspaper of general circulation in the vicinity of the requestor. The exclusion shall be effective upon perfection of notice and shall remain in effect until the individual is removed from the list by

Commission decision.

(e) An individual may contest the Commission's notice of exclusion by requesting a hearing from the Commission. Such hearing may be pursuant to Business and Professions Code section 19871 or pursuant to Government Code section 11500 et seq., as determined by the Executive Director. Such hearing shall occur within 60 days of the request for hearing, unless the time of the hearing is changed by agreement of the Commission and the individual requesting the hearing.

(f) If the individual fails to appear at the time and place set for hearing, and the individual does not contact the Commission within 24 hours to give good cause why the hearing should be reset, a default decision shall issue affirming the exclusion.

(g) At the hearing, the individual may appear in person and/or be represented by counsel at the individual's own expense and present relevant testimony or documentary evidence. If a governmental agency requested that the individual be placed on the statewide involuntary exclusion list, the governmental agency may appear. If a licensee requested that the individual be placed on the statewide involuntary exclusion list, then the licensee or designated agent may appear.

(h) The standard of proof shall be preponderance of the evidence that the individual poses a threat either to the public, gambling enterprise employees, or the gambling industry, or should be excluded pursuant to Business and Professions Code section 19844 or 19845, subdivision (a)(7). The burden of proof shall be on the Commission staff. Evidence of exclusion or discipline by another gaming jurisdiction based upon the factors described in Business and Professions Code section 19844 or 19845, subdivision (a)(7) may be introduced.

(i) The final decision in the matter shall be in writing, shall state any term-length for the exclusion if other than lifetime, shall be sent by certified mail or personal service to the individual and the governmental agency or gambling establishment which requested the individual be placed on the statewide involuntary exclusion list, and shall be effective immediately.

(j) If the individual requested a hearing after the Commission's notice of exclusion and was given a final decision in the matter that affirmed the exclusion, that individual shall not petition the Commission to be removed from the statewide involuntary exclusion list for a minimum of one year after the date of the final decision.

(k) Petitions to be removed from the statewide involuntary exclusion list shall be in writing, directed to the Executive Director, and sent to the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833. Petitioners should clearly state the circumstances of the ejection or exclusion, any new evidence which is material and necessary, including evidence that circumstances have changed since placement on the statewide involuntary exclusion list, and why they do not pose a threat to the public, gambling enterprise employees, the gambling industry, or should otherwise not be excluded pursuant to Business and Professions Code section 19844 or 19845, subdivision (a)(7). This statement shall be signed under penalty of perjury under the laws of the State of California. The Executive Director may summarily deny the petition without prejudice due to lack of compliance with this subsection. If not summarily denied, the Executive Director shall provide notice and opportunity to comment to the requestor. After review of the requestor's comments, the Executive Director, may notify the Bureau to remove the individual from the statewide involuntary exclusion list, or may set the matter for hearing pursuant to Business and Professions Code section 19871 or pursuant to Government Code section 11500 et seq., as determined by the Executive Director.

(l) The Executive Director may order an individual removed from the list after verified information is received that the individual is deceased and shall so notify the Bureau.

(m) If the Commission determines that an individual should be removed from the statewide involuntary exclusion list, the Commission's decision shall include an order removing the individual's name from the list, and shall so notify the Bureau. The Bureau shall amend the exclusion database and send notification to all gambling establishments and to the requestor.

(n) Judicial review of the Commission's decision shall be in accordance with Code of Civil Procedure, section 1094.5.

(o) The statewide involuntary exclusion list shall be maintained by the Bureau, sent or made available to all gambling establishments, and may be shared with law enforcement personnel of any jurisdiction.

(p) Licensees shall implement policies and procedures designed to thwart excluded persons, as noticed by the Bureau, from entering the gambling establishment, ejection or removal procedures of any patrons once recognized as being a known excluded person, and notification to the Bureau of any incidents of attempted entry, entry, or removals of known excluded persons. This regulation does not require a licensee's policies and procedures to include patrons providing



proof of identification before entering the gambling establishment. This regulation does not require the gambling establishment to use physical force in ejecting or removing an excluded person.

(q) The Commission may discipline a licensee that knowingly fails to take prompt, reasonable action to eject or exclude an individual listed on the statewide involuntary exclusion list, or fails to notify the Bureau of any entries or attempts to enter by an excluded person, pursuant to Chapter 10 of these regulations.

(r) This regulation does not create any right or cause of action against a gambling establishment, government official (such as law enforcement, or agents of the California Horse Racing Board, Bureau, or Commission) by an excluded person or abrogate the existing statutory privileges and immunities of a licensee or requestor, or limit or expand the provisions of Business and Professions Code section 19846.

Note: Authority cited: Sections 19840 and 19844, Business and Professions Code. Reference: Sections 19801(i) and (l), 19844, 19845, 19846, and 19940, Business and Professions Code.

## APPENDIX A



## REQUEST FOR STATEWIDE INVOLUNTARY EXCLUSION OF AN INDIVIDUAL

Type or print (in ink) as much information as possible on this form. If additional space is needed, please note response on a separate sheet of paper and attach to the form. **NOTE: THIS IS NOT A VOLUNTARY SELF-RESTRICTION OR SELF-EXCLUSION FORM**

Mail this completed form to: **California Gambling Control Commission, 2399 Gateway Oaks Drive, Suite 220, Sacramento CA 95833.**

### SECTION 1: PERSONAL INFORMATION

Full Legal Name:

First	Middle (if applicable)	Last
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Other Names (Former Names (such as Maiden names), Nicknames, or Aliases / A.K.A.'s):

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Home Address:

Street	City	State	Zip Code
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Mailing Address (if different than Home Address):

Street	City	State	Zip Code
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Home Telephone Number:

( )
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Business Number:

( )
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Games most often played:

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### SECTION 2: PHOTO AND VISUAL DESCRIPTION

Gender: Male ☐ Female ☐

Date of Birth:

/	/
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Race/Ethnicity:

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Height:

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Weight:

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Hair Color/Type:

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Eye Color:

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Date of Photograph:

/	/
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CA Drivers License:

--

or other ID: \_\_\_\_\_

AFFIX A RECENT  
PASSPORT QUALITY  
PHOTOGRAPH  
HERE SHOWING  
HEAD AND SHOULDERS OF  
PERSON TO BE EXCLUDED

Distinguishing marks (such as visible scars or tattoos – describe mark & location):

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Type of vehicle normally driven:

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License Plate:

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**SECTION 3: AFFIRMATION BY KEY EMPLOYEE OR OWNER OR BY GOVERNMENT EMPLOYEE**

NOTE: This form is not for voluntary self-restriction or self-exclusions. This form is not to be completed by patrons.

The facts and reasons why the individual should be excluded are as follows:

The information provided above is true and accurate to the best of my knowledge and **the individual described above should be excluded because he or she poses a threat** to the public, gambling enterprise employees, or the gambling industry.

Signature: \_\_\_\_\_

Date: 

	/		/	
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Print Name, Title, and Gambling Establishment or Facility Name or Governmental Entity:

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